

Senate Study Bill 1090 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ZAUN)

A BILL FOR

1 An Act creating an exception to the statutory rule against
2 perpetuities and making related changes.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 557.7, Code 2017, is amended to read as
2 follows:

3 **557.7 Contingent remainders.**

4 A Except as provided in section 558.68A, a contingent
5 remainder shall take effect, notwithstanding any determination
6 of the particular estate, in the same manner in which it
7 would have taken effect if it had been an executory devise
8 or a springing or shifting use, and shall, as well as such
9 limitations, be subject to the rule respecting remoteness
10 known as the rule against perpetuities, ~~exclusive of any other~~
11 ~~supposed rule respecting limitations to successive generations~~
12 ~~or double possibilities.~~

13 Sec. 2. NEW SECTION. **558.68A Exception to rule against**
14 **perpetuities.**

15 1. Notwithstanding section 558.68, a rule of law against
16 perpetuities, a suspension of the power of alienation of
17 the title to property, or a law restricting or limiting the
18 duration of trusts shall not apply with respect to any interest
19 in real or personal property held in trust if the instrument
20 creating the trust specifically states that such rule or the
21 provisions of section 558.68 shall not apply to the trust and
22 if either the trustee of the trust has unlimited power to sell
23 all trust assets or if one or more persons, one of whom may be
24 the trustee, has unlimited power to terminate the entire trust.

25 2. A trust of real or personal property created by
26 an employer as part of a stock bonus plan, pension plan,
27 disability or death benefit plan, or profit sharing plan, for
28 the benefit of some or all the employer's employees, to which
29 contributions are made by the employer or employees, or both,
30 for the purposes of distributing to the employees or their
31 beneficiaries the earnings or the principal, or both, of such
32 trust is not invalid as violating the rule against perpetuities
33 or any other law restricting or limiting the duration of
34 trusts; but the trust may continue for the time that is
35 necessary to accomplish the purposes for which it was created.

1 3. Subsection 1 shall be effective for interests in real
2 or personal property in trust created by an inter vivos or
3 testamentary trust or will executed on or after July 1, 2017,
4 or pursuant to the exercise of a general power of appointment
5 created on or after July 1, 2017. For the purposes of this
6 subsection, "*general power of appointment*" means a power that is
7 exercisable in favor of the individual possessing the power,
8 the person's estate, the person's creditors, or the creditors
9 of the person's estate.

10	EXPLANATION
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11 The inclusion of this explanation does not constitute agreement with
12 the explanation's substance by the members of the general assembly.

13 This bill creates an exception to the statutory rule against
14 perpetuities codified in Code section 558.68, which is a legal
15 rule related to invalidating interests in property that are
16 intended to belong to a person at some point in the future, but
17 for which the actual determination of ownership cannot or will
18 not be accomplished within a specified period of time. The
19 purpose of the rule is to keep property from being frozen in
20 trust beyond a certain period of years.

21 The bill allows a creator of a trust to suspend, explicitly
22 in the trust document, the rule from applying to a particular
23 trust, but only if the trustee has the power to sell all trust
24 assets or if one or more persons, including the trustee, has
25 the power to terminate the trust.

26 The bill further allows suspension of the rule in situations
27 where an employer creates a stock bonus plan, pension plan,
28 disability or death benefit plan, or profit sharing plan, in
29 trust, for the benefit of the employer's employees, for the
30 purpose of distributing to the employees or their beneficiaries
31 earnings or principal or both.

32 The bill applies to all interests in real or personal
33 property created by testamentary or inter vivos trust or will
34 be executed on or after July 1, 2017, or to the exercise of a
35 general power of appointment created on or after July 1, 2017.